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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,584	03/29/2001	James F. Riordan	CH920000010US1	3499

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EXAMINER

PYZOCHA, MICHAEL J

ART UNIT	PAPER NUMBER
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2137

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/821,584

Applicant(s)

RIORDAN ET AL.

Examiner

Michael Pyzocha

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 30-38 are pending.
2. Amendment filed 12/11/2006 has been received and considered.

Claim Objections

3. The filed amendment overcomes the previously presented claim objections.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 30, 33-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Norton (Norton AntiVirus for Windows 95/98 User's Guide).

As per claims 30 and 33, Norton discloses a security system comprising: an activation token identifying system characteristics and specifying a threat level and at least one preset activation measure, wherein a system characteristic is

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one of the group of a hardware system, a service, a configuration of a service, a service execution platform, and a service session (see pages 37-40); a first system configured to at least review security and vulnerability information from information publishers and to provide the activation token based on filtered security and vulnerability information (see pages 37-40 and page 56); and a second system configured to determine whether the activation token is relevant by checking if actual characteristics at the second system correspond to the system characteristics identified by the activation token, the second system further configured to transform the activation token into at least one activation measure if the activation token is considered relevant by the second system the activation measure configured to modify services executing at the second system (see pages 37-40) wherein the first system is further configured to automatically filter the security and vulnerability information relevant to the system characteristics identified by the activation token (see pages 40 and 22).

As per claim 34, Norton discloses a list of trusted service providers from whom activation tokens are accepted by the second system (see pages 37-40).

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As per claim 35, Norton disclose the at least one preset activation measure is shutting down a service affected by the specified threat level (see pages 29-30).

As per claim 36, Norton discloses the at least one preset activation measure is reconfiguring the functionality of a service affected by the specified threat level (see pages 29-31 and pages 37-40).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Norton as applied to claim 30 above, in view of Bates et al (US 6721721).

As per claim 32, Norton fails to disclose cryptographic means configured to verify at the second system that the first system is a trusted service.

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However, Bates et al teaches the use of cryptographic verification (see column 14 line 62 through column 15 line 8).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use cryptographic verification in the Norton system.

Motivation to do so would have been to authenticate the information and the sender of the information (see Bates et al column 14 line 62 through column 15 line 8).

8. Claims 32 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norton as applied to claim 30 above, in view of Levi (US 6636983).

As per claims 32 and 38, Norton fails to disclose reporting or alerting an administrator of the activation measures.

However, Levi teaches the notification of an administrator upon activation measures (see column 12 lines 10-19).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to report an administrator of the activation measures in the Norton system.

Motivation to do so would have been to track the changes to the system (see column 12 lines 10-19).

9. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Norton as applied to claim 30 above, in view of Waldin et al (US 6651249).

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As per claim 37, Norton fails to disclose installing a patch.

However, Waldin et al teaches the installation of a patch (see column 4 lines 25-60).

At the time of the invention it would have been obvious to a person of ordinary skill in the art for an activation measure in Norton to be the installation of a patch.

Motivation to do so would have been to transform a previous version of the software application to the current version (see column 4 lines 25-60).

Response to Arguments

10. Applicant's arguments filed 04/22/2006 have been fully considered but they are not persuasive. Applicant argues that Norton fails to disclose one of the specific system characteristics; Norton fails to disclose specifying a threat level; Norton fails to disclose at least one preset activation measure; Norton fails to disclose the activation token is based on security and vulnerability information from information publishers; Norton fails to disclose the limitations of claim 33; and there is no motivation to authenticate the server or any entity in the system because they are all trusted.

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With respect to Applicant's that Norton fails to disclose one of the specific system characteristics, Norton at least discloses "a service" because the system must the Norton virus scanner in order to obtain and use the virus definition updates; "a configuration of a service" and "a service version" because the configuration and version of the Norton virus scanner correspond to the current virus definitions in the system. Applicant further argues (on page 6) that a virus cannot constitute a system characteristic, however, the virus definitions, which are different from the actual viruses, are at least part of the system characteristic.

With respect to Applicant's argument that Norton fails to disclose specifying a threat level, as disclosed on page 38 Norton discloses that when a major threat (i.e. a higher threat level than previous levels) is discovered the system will email the user in order to update the virus definitions and these definitions fixing the major threat are downloaded from via the email using the LiveUpdate. Therefore, Norton discloses an activation token specifying a threat level. Applicant's further give examples from the specification as to what constitutes a threat level, although the claims are interpreted in light of the specification, limitations from the specification are not

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read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

With respect to Applicant's argument that Norton fails to disclose at least one preset activation measure, the virus definitions give the virus scanner the information needed to find the virus and remove the virus. Therefore, this scanning for and removing of a virus is the at least one preset activation measure. Furthermore, on page 40 Norton discloses the specific scanning of the system with the new definitions in order to make sure newly discovered viruses are found.

With respect to Applicant's argument that Norton fails to disclose the activation token is based on security and vulnerability information from information publishers, Applicant is directed to page 56 titled "Creating a Virus Sample Floppy Disk" which discloses that users (i.e. information publishers) can send files suspected of being infected with a virus to Symantec (Norton) and they will scan it and determine if a virus is contained. If there is a virus Symantec (Norton) will create a new virus definition. It is also well known in the art that when a virus detection company finds a new virus it will publish this information and the antivirus companies like Symantec (Norton) will create new virus definitions to remove these viruses.

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With respect to Applicant's argument that Norton fails to disclose the limitations of claim 33 as discussed above, when the new definitions are received the system is scanned for viruses based on the new definitions (see page 40). Furthermore, Norton allows the scanner to be set up for automatic scanning (see page 22).

With respect to Applicant's argument that there is no motivation to authenticate the server or any entity in the system because they are all trusted, there is no doubt that the LiveUpdate servers are intended to be trusted, but there is nothing stopping someone from spoofing a trusted server. Furthermore, on page 39, Norton discloses obtaining updates without LiveUpdate from such things as bulletin boards and it is clear that these locations are not guaranteed to be trusted and the authentication of the information and sender would be greatly desired to improve the security to ensure that each the sender and the received information is trusted.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this

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action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJP


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